Before the
FEDERAL COMMUNICATIONS COMMISSION FCC 95-286
Washington, D.C. 20554

In the Matter of	)	
	)	
Streamlining the International	)	IB Docket No. 95-118
Section 214 Authorization Process and	)	
Tariff Requirements	)	

NOTICE OF PROPOSED RULEMAKING

Adopted: July 13, 1995 **Released: July 17, 1995**

Comment Date: August 23, 1995
Reply Comment Date: September 7, 1995

By the Commission:

TABLE OF CONTENTS

Paragraph Nos.

I. INTRODUCTION

1. With this Notice we propose to eliminate unnecessary regulatory burdens on international common carriers. The dramatic growth in international competition means that, in some areas, regulatory oversight can be reduced. In making the proposals set out in this Notice, we recognize that government interference with market forces through unnecessary regulation is costly. Such costs include the actual out-of-pocket costs incurred by industry in complying with various regulatory requirements as well as by government in administering these regulatory schemes. In addition, because regulation can interfere with market forces, it may also have an adverse impact on economic efficiency and consumer welfare. Accordingly, the proposals in this Notice will enable international carriers to respond to the demands of the market with minimum regulatory interference, saving time and money both for industry and government.

2. Among our proposals, we recommend: (1) making a general public interest determination affecting a class of international carriers instead of individual applicants (i.e., issuing global international Section 214 authorizations to facilities-based carriers for the provision of international services); (2) making essential information readily available to all carriers and users; (3) reducing paperwork obligations; and (4) streamlining our tariff requirements on international nondominant carriers. Many proposals contained in this Notice were developed from recommendations made by the public and by industry representatives at roundtable discussions sponsored by the International Bureau. In keeping with the purpose of the Commission's recent consolidation of international activities in the International Bureau, these proposals create significant processing and operational efficiencies.

II. BACKGROUND

3. We created the International Bureau to consolidate the Commission's international policies and activities, and create a more effective organization to address

international communications issues. Previously, Commission international and satellite functions such as policy development, facility and service licensing, international spectrum management, negotiation of agreements with other countries and other matters were dispersed among six different bureaus and offices within the agency.[1] Congress and industry made it clear that improvements needed to be made in international policy development and representation of U.S. interests overseas in view of the globalization of communications. Moreover, in a global market, it was clear that the United States could not afford a licensing process that hinders the competitiveness of U.S. industry. The International Bureau was created to respond to these concerns in a comprehensive manner.

4. Upon its creation, the International Bureau commenced a review of all of its operations in order to eliminate outdated regulations and needless burdens imposed on the public and industry. The month after its creation, the Bureau held its first roundtable discussion with industry to solicit ideas for procedural improvements, including changes to the Section 214 authorization process. The Bureau issued several public notices encouraging the public to write or call with additional ideas for improvement. In addition, the Bureau has discussed possible changes with the International Practice Committee of the Federal Communications Bar Association. As a result of these meetings and public notices, the Bureau received many excellent suggestions for improvements, some of which the Bureau was able to implement quickly without a rule change.[2] Other areas of improvement, however, require changes to our rules, which lead us to institute this rulemaking. This proceeding is an important step to streamline Section 214 and related regulatory procedures to make U.S. industry more competitive and is the result of focusing the attention of a consolidated organization on issues of international competition.

5. We are mindful of our statutory obligations under the Communications Act to guard against abuses of monopoly power where effective competition does not yet exist. We meet these obligations through our Section 214 authorization process and apply dominant carrier and other safeguards where circumstances warrant. In addition, our proposals to eliminate many filing and prior authorization requirements should be read in conjunction with the Report and Order, Rules for the Filing of International Circuit Status Reports ("Circuit Status Report"), adopted concurrently with this Notice.[3] Pursuant to the rules adopted in the Circuit Status Report proceeding, the Commission will continue to collect and make public

---

[1] Over 40 international and satellite functions were consolidated into the International Bureau from six different bureaus and offices. See FCC News Release, Rep. No. GN-167, rel. Oct. 12, 1994.

[2] For example, the Bureau has sped up the processing of applications by: (a) granting certain routine authorizations by stamping the application "granted" instead of writing lengthy orders; (b) starting the public comment cycle on applications more quickly by increasing the number of public notices of applications accepted for filing; and (c) in cases of difficult and contested applications, calling status conferences with parties to discuss the merits of the parties' positions, seek stipulations to agreed upon facts, and explore settlement options.

[3] __ FCC Rcd ___ (1995) [hereinafter Circuit Status Report].

information from carriers identifying the countries that international carriers actually are serving through circuit status reports. This information aids us in our efforts to foster a more competitive international telecommunications marketplace.

III. LEGAL AUTHORITY

6. Section 214(a) provides that no carrier is to construct, extend, acquire, operate or engage in transmission over a line unless it first obtains from the Commission a certificate that the present or future public convenience and necessity is advanced by this activity.[4] The Supreme Court has determined that the Commission has considerable discretion in deciding how to make its Section 214 public interest finding.[5] Section 214(a) imposes no detailed procedural requirements. It does not restrict the Commission in the implementation of its regulatory program other than by requiring that the Commission apply the public convenience and necessity test reasonably.[6] Nor does the Act specify the amount or type of information to be obtained from applicants.[7]

7. Thus, we have authority to set overall regulatory policies applicable to common carriers when we perceive this approach to be in the public interest. Previously, we have made public interest findings required by Section 214 in the form of broad policies of general applicability to all entrants within a given class instead of making individual public interest findings on individual applications.[8] We have taken this approach when a competitive environment exists, as the development of competition reduces the degree of regulation necessary to protect the public interest.[9] Where we find competition exists in the international telecommunications marketplace, we believe that the Act provides us sufficient flexibility to allow the procedures we propose in this Notice.

---

4 47 U.S.C. § 214(a) (1995).

5 See FCC v. RCA Communications, Inc., 346 U.S. 86, 90 (1953). See also Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor, First Report and Order, 85 FCC 2d 1, ¶¶ 117-129 (1980) [hereinafter Domestic Common Carrier](discussing the Commission's Authority under Section 214(a) of the Act).

6 See Domestic Common Carrier, 85 FCC 2d 1, ¶ 119 (1980).

7 AT&T v. FCC, 572 F.2d 17 (2nd Cir.), cert. denied, 439 U.S. 847 (1978).

8 See, e.g., FCC v. RCA Communications, Inc., 346 U.S. 86 (1953); Washington Utilities and Transportation Commission v. FCC, 513 F.2d 1142, 1160-65 (9th Cir. 1975); Network Project v. FCC, 511 F.2d 786 (D.C. Cir. 1975); AT&T v. FCC, 572 F.2d 17 (2nd Cir.), cert. denied, 439 U.S. 847 (1978).

9 International Competitive Carrier Policies, Report and Order, 102 FCC 2d 812, ¶ 2 (1985) [hereinafter International Competitive Carrier].

IV. STREAMLINING SECTION 214 AUTHORIZATIONS

1. Facilities-based carriers

8. Sections 63.01 and 63.15(a) of the Commission's Rules require that applications for Section 214 authority to provide international common carrier services specify the geographic market (i.e., the country) to be served, the particular services to be provided, and the facilities to be used.[10] Nondominant carriers authorized under Section 214 to initiate service to a particular country on a particular type of facility may provide service over any other authorized facilities without first obtaining additional Section 214 authority.[11] They also may substitute cable for satellite circuits and satellite for cable circuits without additional authority.

9. Some applicants have filed individual Section 214 applications for every country to which they seek to provide service.[12] Recently, other applicants have filed single Section 214 applications that identify numerous facilities and countries to which they seek to provide service.[13] We have routinely granted both types of applications. It would be less costly and burdensome, for the Commission and industry, if applicants sought the broadest Section 214 authority available in terms of facilities, services and countries served in their initial Section 214 applications.

10. We propose to amend Section 63.01 and 63.15 of our rules to facilitate applications for broad authority subject to an exclusion list that we would publish identifying countries or facilities on which there are restrictions or for which we must make certain findings in authorizations.[14] We believe the public interest would be served by encouraging

---

[10] 47 C.F.R. §§ 63.01(e)-(f); 63.15(a) (1994).

[11] 47 C.F.R. § 63.15(a) (1994). This general rule is subject to certain limitations for the acquisition of capacity in noncommon carrier facilities and construction of any major common carrier facility. Id.; see also infra ¶¶ 23-26.

[12] See e.g. Sprint Communications Company L.P., 10 FCC Rcd 2763 (International Bureau 1995) (application for service to Oman, Sri Lanka and Bangladesh).

[13] See e.g. ACC Global Corp., 10 FCC Rcd 3189 (International Bureau 1995) (application for service to over 75 countries using multiple facilities)

[14] For example, because of U.S. Department of State requirements, the Commission has separate filing requirements for service to Cuba. See FCC To Accept Applications for Service to Cuba, Public Notice, Rep. No. I-6831, rel. July 27, 1993 (requiring special procedures for filing applications for service to Cuba). Additionally, the Commission at times has restricted service on certain facilities, such as non-U.S.satellites. See e.g. American Telephone and Telegraph Company, 8 FCC Rcd 2668 (Common Carrier Bureau 1993) (restricting the number of circuits authorized for use on the Intersputnick Satellite for the provision of switched services).

facilities-based carriers to request global Section 214 authority to provide international services over authorized facilities to virtually all countries in the world. Clarifying the existing policy would enable applicants to expand their businesses without returning to the Commission for additional authorizations. Such applications submitted by nondominant facilities-based carriers without foreign affiliations as defined by our rules would be subject to the same streamlined procedures we use for resale applications.[15] Namely, these applications would be placed on public notice as accepted for filing. Petitions to deny the grant of such applications must be filed within 21 days. If the application is unopposed, the application would be deemed granted 35 days after the date of the initial public notice that lists the application as accepted for filing, and the applicant may commence operations on the 36th day. We would issue a second public notice that would serve as applicants' Section 214 authorization. This public notice would list the applications granted, restrictions on providing service to particular countries, and restrictions on the use of certain facilities. The public notice would also state that if carriers become affiliated with a foreign carrier after authorization is granted they must notify the Commission of their affiliation.[16]

11. This streamlined processing would not apply to applications that are contested or those the Commission believes require further review. In such a case, the Commission would inform the applicant in writing, by public notice or letter, that the application is not subject to streamlined processing. This notification would be done within 28 days (one week after the due date for petitions to deny) from the initial public notice date or in the initial public notice itself.

12. We would grant broad authority under this procedure to use half-circuits on all previously and subsequently authorized U.S. common carrier and noncommon carrier facilities and any necessary foreign connecting facilities. This includes both noncommon carrier and common carrier submarine cables landing in the United States, Intelsat satellites, U.S. separate system satellites and the U.S. earth stations licensed to communicate with the satellites.

13. For situations where the public interest requires us to halt or restrict either service to a particular country or use of specific facilities[17] previously permitted under an existing broad authorization, we would amend our exclusion list and issue a public notice to that effect after due notice and opportunity for hearing. Moreover, if the President issues an Executive Order to prohibit or restrict service to a particular country, we would amend our exclusion list and issue a public notice to that effect without due notice and opportunity for

---

[15] See 47 C.F.R. § 63.12 (1994). See also Market Entry and Regulation of Foreign-affiliated Entities, Notice of Proposed Rulemaking, 10 FCC Rcd 4844, 4853-56, ¶¶ 20-32 (1995) [hereinafter Foreign Carrier Entry - NPRM].

[16] 47 C.F.R. § 63.11 (1994).

[17] See supra note 14.

hearing. Pursuant to this Executive Order, entities that have not yet commenced providing service could be prohibited automatically from commencing service to that country.

14. If applicants request either to use facilities not yet authorized or on the exclusion list, or to serve countries on the exclusion list, then the applicant would have to file a separate Section 214 application. For instance, we would still require that proposed owners of new common carrier submarine cable systems obtain separate Section 214 authority to construct and operate the cable. We do propose, however, to reduce the amount of information required in such applications.[18] As for noncommon carrier cables solely authorized under the Cable Landing License Act,[19] we propose to make a public interest determination at the time we issue the license that carriers with this broad Section 214 authority may use the cable.

15. We propose that carriers regulated as dominant on any route, or carriers that have a foreign affiliation as defined by our rules, may apply for global Section 214 authority on routes where they are nondominant. Such applications, however, would not be subject to streamlined processing. We believe these applications should be granted by written order because it may be appropriate to include safeguards to protect against discrimination or other anticompetitive conduct by the carriers involved.[20] Such carriers would have to file separate applications for service to countries in which they are dominant or have a foreign affiliation.

16. We also propose to amend Section 63.05 of the Commission's Rules, which requires carriers to commence operation as specified in their application within a given time from the Section 214 authorization date. International carriers, unlike domestic carriers, need to obtain operating agreements from foreign carriers. Obtaining such agreements often takes time, which unduly delays carriers' initiation of service to particular countries. Such delay is often outside carriers' control. Consequently, we propose to amend Section 63.05 so that international common carriers need not commence operations within a specified time from the Section 214 authorization date.

---

18 See infra ¶ 41.

19 "An Act Relating to the Landing and Operation of Submarine Cables in the United States" 47 U.S.C. §§ 34-39 (1976); Exec. Order No. 10,530, 3 C.F.R. 189 (1954-58), reprinted in 3 U.S.C. § 301 (1982) (delegating to the Federal Communications Commission certain presidential functions relating to submarine cable landing licenses).

20 The Commission will continue to collect information from carriers identifying the countries they actually are serving through circuit status reports pursuant to Section 43.82 of the Commission's Rules, see Circuit Status Report, supra note 3, and through traffic reports filed under Section 43.61 of the Commission's Rules. 47 C.F.R. § 43.61 (1994). The Commission will then publish the information on a country-by-country basis in a report that indicates the number of circuits in each category of transmission facility (submarine cable, satellite and terrestrial) that an international carrier has activated for each specified service, the total number of circuits activated and the total number of idle circuits.

17. Several facilities-based carriers have raised the question in Section 214 applications as to whether existing policy requires that they obtain specific Section 214 authority to serve a new destination country on an indirect, switched transit basis through an intermediate country for which the carrier has a facilities-based Section 214 certificate.[21] We here clarify that Commission rules and policy permit carriers to provide service on an indirect, switched transit (or "and beyond") basis through intermediate countries which they are authorized to serve on a direct, facilities basis, regardless of whether they have Section 214 authority to serve the ultimate destination country.[22] The broad Section 214 authority under the streamlined procedures that we propose in this proceeding would apply to both direct and indirect switched services and eliminate uncertainty about the need for nondominant carriers to obtain "and beyond" authority to provide indirect service.

2. Resellers

18. Section 63.01(k)(6)(ii) requires applicants that propose to provide service through the resale of the international switched or private line services of another U.S. carrier to specify the names of the U.S. carriers and the specific FCC tariffs to be resold.[23] Consequently, when resellers want to resell services of carriers that were not listed in their initial Section 214 applications, we have required such resellers to file new Section 214 applications to obtain the requisite authority. This rule is no longer needed because we receive sufficient information from carriers' traffic reports filed pursuant to Section 43.61 of the Commission's Rules. Traffic reports indicate to which countries resellers are actually providing service. Consequently, we no longer need to know to which countries carriers are merely authorized to provide service.

19. In order to facilitate resellers' ability to expand the range of carriers used as new facilities-based carriers emerge in the market, we propose to repeal this rule so that all current and future authorized resellers of international services be authorized to resell

---

[21] See e.g. American Telephone and Telegraph Company, File No. ITC-92-152; MCI Telecommunications Corp. File No. ITC-92-153; GTE Hawaiian Telephone Company Incorporated, File No. ITC-92-158; and U.S. Sprint Communications Company Limited Partnership, File No. ITC-91-215(A). Indirect, switched transit traffic, while often referred to generally as "transit traffic," is traffic that is switched through an intermediate country, where the United States is one of the terminal points. See Implementation and Scope of the International Settlements Policy for Parallel Routes, CC Docket No. 85-204, Report and Order, 51 Fed. Reg. 4736 (Feb. 7, 1986) (ISP Order), modified in part on recon., 2 FCC Rcd 1118 (1987) (ISP Reconsideration), further recon., 3 FCC Rcd 1614 (1988).

[22] See Tropical Radio Telegraph Co., 35 FCC Rcd 950, 961 (1972). This general rule does not apply where a carrier's Section 214 certificate for the intermediate country prohibits routing of traffic beyond that point, whether generally, or to specific terminal points.

[23] 47 C.F.R. § 63.01(k)(6)(ii) (1994).

services of any authorized unaffiliated common carrier, pursuant to that carrier's tariff or contract.[24] They would no longer need to specify the names of the unaffiliated U.S. carriers or the specific FCC tariffs to be resold in their initial Section 214 applications, nor would they need additional authorizations to add new unaffiliated underlying carriers. If an applicant desires to resell the services of an affiliated common carrier, however, it will need to file for separate Section 214 authority in order to give the Commission the opportunity to review whether additional safeguards are needed to guard against potential discrimination and anticompetititve harm.

3. Resale of private lines for switched services

20. The Commission encourages the resale of international private lines to provide switched services. This resale service fosters new entry into the international telecommunications market. Additionally, such resale exerts downward pressure on above-cost international accounting rates and foreign collection rates through the diversion of switched traffic to resold private lines. However, the Commission permits the resale of international private lines interconnected to the public switched network only to countries that allow such resale to occur in both directions, and requires each applicant seeking to resell international private lines in the United States to demonstrate that the destination foreign country affords resale opportunities equivalent to those available under U.S. law.[25] Under current rules, parties with Section 214 authority to provide switched services through the resale of private lines to a particular country must obtain separate Section 214 authority to provide such service to additional countries that are later determined by the Commission to provide equivalent resale opportunities.

21. We propose that, once we make an initial equivalency determination for a particular country, all previously authorized private line resale carriers would be automatically allowed to resell interconnected private lines to that country and no additional filing would be necessary. Requiring authorized resale carriers to obtain additional authorization to serve subsequently designated equivalent countries places an unnecessary burden on carriers and on the Commission.

22. Thus, we propose that a carrier's initial Section 214 authorization to resell interconnected private lines to provide switched service would cover all countries then

---

[24] Carriers reselling services pursuant to contracts instead of tariffs would still need to file copies of contracts with the Commission. See 47 C.F.R. § 43.51 (1994).

[25] See In the Matter of the Regulation of International Accounting Rates Proceeding, Phase II, First Report and Order, [hereinafter International Resale Order], 7 FCC Rcd 559 (1992).

designated equivalent.[26] Additionally, a carrier thus certified would no longer need to obtain further Section 214 authority to serve additional countries later found to be equivalent by the Commission. The new rule would have two exceptions: (1) where the carrier has an affiliation, within the meaning of Section 63.01(r)(4), with the U.S. facilities-based carrier whose international private line services it desires to resell (either directly or indirectly through the resale of another reseller's services); and (2) where the carrier seeks authority to resell international private line services to a country in which the foreign carrier with which it has an affiliation within the meaning of Section 63.01(r)(1) (i) and (ii) owns or controls telecommunications facilities.[27] When these exceptions pertain, applications would be acted upon only by formal written order. Carriers shall not commence operation for which such authorization is sought except in accordance with such order. We also propose to apply this approach to existing Section 214 authorizations for resale of private lines to provide switched services, thus permitting them to provide resale of private lines to any future equivalent countries. We will continue to receive information identifying the countries that international private line resellers are serving through traffic reports filed under Section 43.61 of the Commission's Rules and circuit addition reports required under Section 63.15(b) of the Commission's Rules.

4. Private satellite and cable systems

23. Currently, we require all carriers to obtain Section 214 authority to acquire or lease capacity on noncommon carrier facilities, as well as to add circuits on these facilities.[28] This requirement was initially set forth in our 1985 International Competitive Carrier Policies Report and Order[29] where we stated that we would require international carriers to file Section 214 applications to acquire capacity on private cables or satellites. We explained that such authorizations were necessary for our long-range facilities planning responsibilities as well as to assure compliance with Commission conditions placed on private systems.

24. Since 1988, we have discontinued the North American, Pacific and Caribbean facilities planning processes and have no current need to initiate these activities. Furthermore, any necessary conditions on the private facilities are normally placed on the original authorization for construction and operation of those facilities. Consequently, enforcing such conditions does not require the filing of individual 214 facilities applications by carriers seeking to acquire capacity on private cables or satellites.

---

[26] We recently asked for comment on such an approach in our foreign carrier entry Notice of Proposed Rulemaking. We will incorporate by reference in this proceeding the relevant comments filed in that docket. See Foreign Carrier Entry - NPRM, 10 FCC Rcd 4844 (1995).

[27] 47 C.F.R. § 63.12(c)(2) (1994).

[28] 47 C.F.R. § 63.15(a) (1994).

[29] International Competitive Carrier, 102 FCC 2d 812, 845, ¶ 81 (1985).

25. Moreover, since 1988, there is no shortage of common carrier facilities as competition in satellite and cable capacity has increased greatly on most routes. Since 1988, in addition to the INTELSAT system, ORION, PanAmSat and Columbia, which are three private satellite systems, are in operation. In the Atlantic Region, TAT 8 - TAT 11 have been in operation as common carrier cables and PTAT-1 has been in operation as a private cable. Furthermore, TAT-12 and TAT-13 are scheduled to be in operation in 1995 and 1996 respectively. In the Pacific Region, GPT, HAW-4/TPC-3, HAW-5, PACRIM East and West, and TPC-4 have been in operation as common carrier cables and NPC has been in operation as a private cable. Additionally, TPC-5 is scheduled to be in operation in December 1995 as a common carrier cable and ALOHA is scheduled to be in operation in December 1995 as a private cable. In the American and Caribbean Region, TAINO-CARIB, TCS-1, Americas-1, and Columbus-2 have been operation as common carrier cables and CANUS-1 is scheduled to be in operation in late 1995.[30]

26. In light of the changes since 1988, we believe that the requirement to obtain Section 214 authorizations for additional circuits is no longer necessary and therefore we propose to repeal this rule. We propose that once a nondominant facilities-based carrier obtains an initial Section 214 authorization, which may be for global or specific capacity on a noncommon carrier system, it would not have to file additional Section 214 applications to add circuits on noncommon carrier facilities subject to the provisions of the exclusion list identifying facilities on which the Commission has restrictions.[31]

5. Conveyance of cable capacity

27. Currently, we include a requirement in each Section 214 authorization to construct and operate a submarine cable facility that states "No carrier deemed a dominant carrier. . . shall dispose of any interest in [authorized capacity] in any way without prior authorization by the Commission." This policy was never codified as a rule. When dominant carriers submit applications to dispose of transmission capacity in submarine cables, such applications are placed on public notice for 30 days and, if unopposed, are routinely authorized.

---

[30] Capacity in all three regions has also increased. Currently, in the Atlantic Region 11,340 circuits (64-kbps) are available in a private cable and 52,920 circuits (64-kbps) are available in common carrier cables. In 1995 and in 1996, common carrier cable circuit capacity is scheduled to increase by an additional 60,480 circuits (64-kbps) in each year. Currently, in the Pacific Region, 17,010 circuits are available in a private cable and 37,800 circuits (64-kbps) are available in common carrier cables. By December 1995, an additional 60,480 circuits (64-kbps) is scheduled to be available in a private and a common carrier cable respectively. In the American Region, 94,500 circuits (64-kbps) are available in common carrier cables, and an additional 60,480 circuits (64-kbps) is scheduled to be available late 1995 in a private cable.

[31] See supra note 14.

28. We have required dominant carriers to obtain authority prior to disposing of transmission capacity in submarine cables in order to monitor the identity of nondominant carriers acquiring such transmission capacity, as nondominant carriers do not need Section 214 authorizations to convey or obtain additional capacity. This information also is used to monitor dominant carriers' activities and ability to influence and control the use of the submarine cables. Collecting such information and making the dominant carrier's activities public was appropriate when there was limited submarine cable transmission capacity.

29. In recent years, there has been a large increase in submarine cable transmission capacity to all major markets and many new competitors have entered these markets. This generally has reduced the need for the Commission to monitor and publish the transactions of dominant carriers on cable systems to major markets. Additionally, over the last several years, AT&T routinely has filed applications to convey transmission capacity in submarine cables and none has been opposed, commented on by a third party or denied. Moreover, we no longer regulate the prices at which carriers convey transmission capacity to other carriers,[32] and circuit utilization information will continue to be available through carriers' circuit status reports filed pursuant to Section 63.15(b) of the Commission's Rules, and traffic reports filed under Section 43.61 of the Commission's Rules. Moreover, information on capacity conveyances will be available through carriers' filings required under Section 43.51 of the Commission's Rules.

30. Therefore, we propose to allow dominant carriers to convey transmission capacity in submarine cables to other carriers without prior Section 214 authority.[33] This would reduce the time the purchasing carriers must wait before they can utilize the purchased capacity, and allow them faster entry into the market. Removing this requirement would reduce dominant carriers' burden to file Section 214 applications and would eliminate the time the Commission devotes to processing them. We thus believe that it is in the public interest to allow dominant carriers to convey transmission capacity in submarine cables to other carriers without obtaining prior Section 214 authorization.

---

[32] Reevaluation of Depreciated-Original-Cost Standard, 7 FCC Rcd 4561 (1992), recon. denied, 8 FCC 4173 (1993).

[33] On June 22, 1993, AT&T filed a petition to eliminate requirements that dominant U.S. carriers obtain Commission authorization prior to conveying interests in communications facilities to other U.S. carriers. MCI filed comments opposing AT&T's petition, contending that eliminating the requirement would undermine the ability of nondominant U.S. carriers to negotiate reasonable prices for those interests and would unfairly improve AT&T's already superior bargaining position. The two parties subsequently communicated to the FCC that in their view, the best approach would be for AT&T to notify the Commission and affected customers of the conveyances. Petition to Eliminate Requirements that Certain U.S. Carriers obtain Commission Authorization Prior to Conveying Interests in Communications Facilities to Other U.S. Carriers, ISP 93-012 (Dec. 15, 1994).

6. Discontinuances

31. We propose to modify and clarify several sections of the Commission's Rules that prescribe procedures for carriers to follow when retiring, discontinuing, reducing or impairing service to a community. Section 214(a) of the Act requires carriers that discontinue, reduce, or impair service to a community to obtain from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected.

32. In 1985, as part of our efforts to streamline our requirements on nondominant international carriers, we implemented Section 214 discontinuance requirements by a notification requirement when such carriers discontinue, reduce or impair service to a community instead of a discontinuance application.[34] The Commission's Rules now require nondominant international carriers to provide notification of their decision to discontinue, reduce or impair service 120 days prior to the planned action. We originally chose 120 days based on carriers' explanation that finding substitute international private line service can take three months or more due to the need to co-ordinate service with a foreign carrier, a U.S. international carrier and a domestic carrier.

33. Since implementing these rules, we have received many inquiries from the industry as to whom nondominant international carriers must provide notification, and what the contents of the notification must be. Section 63.15(c) of the Commission's Rules states only that "[a]ny party certified to provide nondominant international communications services to a particular geographic market is required to give 120 days notice prior to discontinuing service to that geographic market."[35] Additionally, carriers have expressed confusion as to whether carriers should follow the simple notification requirement in Section 63.15(c) or the more extensive notification requirement in Section 63.71 of the Commission's Rules.[36]

34. To address this situation, we have two proposals. First, we propose to clarify that nondominant international carriers should follow the less burdensome of our notification rules: Section 63.15(c) and not Section 63.71. And second, we propose to modify Section 63.15(c) to require nondominant international carriers that seek to discontinue, reduce, or impair service to a community to: (a) notify their customers in writing at least 60 days in advance of their action, as opposed to the current 120 days; and (b) send a copy of this notification to the Commission.

---

[34] See International Competitive Carrier, supra note 9, ¶ 83 (1985).

[35] 47 C.F.R. § 63.15(c) (1994).

[36] Section 63.71 requires nondominant carriers to notify all affected customers of the planned discontinuance, reduction or impairment; file an application with the Commission that certifies that notice has been given to affected customers; explain the method and date of such notification; and provide additional information that the Commission may require. 47 C.F.R. § 63.71 (1994).

35. We believe that these two changes would eliminate industry's confusion over our requirements for nondominant international carriers that seek to discontinue service to a community. We also believe that reducing the 120 day notification requirement to 60 days would aid carriers by enabling them to exit the market easier. At the same time, given that competition has increased both in the number of available facilities and the number of carriers providing private line service, we tentatively conclude that impairment of service is unlikely and customers easily can obtain alternative service within 60 days.

36. Additionally, we propose to modify Section 63.62(a) and Section 63.500 of the Commission's Rules to specifically state that prior Section 214 authorization is not required when carriers retire international facilities where service is not being discontinued, reduced or impaired. Carriers retire submarine cables when the cable's useful life is over or if new technology renders the cable obsolete. Customers' service is rarely impaired because carriers typically move their customers over to new facilities before retiring a cable. We propose to implement this Section 214 certification requirement through the same notification requirement that we propose for discontinuances by nondominant international carriers. Dominant international carriers that seek to retire facilities which will impair or reduce service to a community shall still file applications pursuant to Section 63.62(a) and Section 63.500 of the Commission's Rules.

7. Cable landing license applications

37. The Cable Landing License Act requires anyone who lands or operates a submarine cable directly or indirectly connecting the United States to a foreign country or connecting two U.S. points to obtain a written license issued by the President of the United States.[37] Section 1.767 of the Commission's Rules sets forth requirements for submarine cable landing licenses and requires an applicant to specify: the name and address of the application; the corporate structure and citizenship of officers if a corporation; a description of the submarine cable including the type and number of channels and the capacity; the location of points on the shore of the United States and in foreign countries where cable will land (including a map); the proposed use, need and desirability of the cable; and such other information that may be necessary to enable the Commission to act on the application.

38. We propose to eliminate the requirement in Section 1.767 that applicants specify the proposed use, need and desirability of the cable. Because the Commission has discontinued the North American, Pacific and Caribbean facilities planning processes,[38] the Commission does not need to know this information.

39. Additionally, we propose to allow applicants to provide a general geographic

---

[37] See supra note 19.

[38] See supra ¶¶ 23-26.

description of the landing points in their initial applications as long as the precise landing points are provided at least 90 days prior to construction. Knowledge of the precise landing points is important to verify whether the cable's presence would cause a significant environmental impact on the area as defined in Section 1.1305 of the Commission's Rules. The information is also needed so that the Secretary of the Army could move the submarine cable for purposes of national defense or for the maintenance or improvement of harbors for navigational purposes.[39] However, companies must raise capital initially to perform extensive and expensive desk studies and location surveys, that can cost $100,000 or more, to determine where it is economically and physically viable to lay the submarine cable. Before companies make this initial investment and before they obtain financing for the project, they often need assurance from us that they can land the cable. Consequently, our proposal accommodates the financial realities of the companies that lay the cables.[40]

8. Contents of international Section 214 applications

40. Currently, applicants requiring either domestic or international Section 214 authority apply under Section 63.01. To eliminate the filing of unnecessary information in Section 214 applications, we propose to create a new rule that would focus only on the contents of Section 214 applications for international carriers. This proposed rule is appended to this Notice. See Appendix A. Creating a new rule directed at international concerns would make it easier for international applicants because all requirements would be consolidated in one rule, which would reflect the proposed rules in this Notice. Accordingly, the current Section 63.01 would no longer be applicable to international carriers.

41. Also, we propose to reduce significantly the information that we require in considering Section 214 applications for construction and operation of common carrier submarine cable facilities. On balance, we believe that we need not review factors such as demand, cost, service quality, media and route diversity, restoration, intramodal and intermodal competition, technological innovations and international comity. This information does not appear necessary if U.S. international carriers investment in submarine cable facilities is viewed as a business decision taken at their own risk in a competitive market. It would appear that the information required in our rules for cable landing licenses in addition to minimal information in Part 63 would be sufficient for us to act upon Section 214 applications to construct and operate submarine cables. Therefore, we propose to exclude from our new rule the filing requirements found in Section 63.01(e) through (h), (k)(1) through (4), and (l) through (p).

---

39 See 47 C.F.R. § 1.767(b). These applications are acted upon by the Commission after obtaining the approval of the Secretary of State and such assistance from any executive department or establishment of the Government as it may require.

40 See Tel-Optik Limited, 100 FCC 2d 1033 (1985)

42. We also propose to clarify in our new rule the definition of a "foreign carrier" currently found in Section 63.01(r)(1)(ii). There has been some confusion as to whether, for purposes of defining when a U.S. carrier is "affiliated" with a foreign carrier, the term "foreign carrier" includes an entity in a foreign country that solely provides domestic telecommunications services. The confusion has resulted from the current phrasing of the rule, which states that a foreign carrier is an entity engaged in the provision of "international telecommunications services offered to the public in that country within the meaning of the International Telecommunications Regulations, see Final Acts of the World Administrative Telegraph and Telephone Conference, Melbourne, 1988 (WATTC-88), Art. 1." When the term "international telecommunications services" is read in conjunction with Article 1 of WATTC-88, it becomes clearer that this includes carriers providing domestic telecommunications services in the foreign markets. In addition, in the order initially adopting this rule, we stated that we were concerned with foreign entities that provide services and facilities of the type regulated as common carriage in the United States, including intercity and local access services and facilities.[41] To avoid further confusion, we propose to amend this rule to clarify that a foreign carrier is defined as any entity that is authorized within a foreign country to engage in the provision of telecommunications services, which can include domestic services.

9. Conditions of international Section 214 authorizations

43. Currently, we list in our Section 214 authorizations practically every condition with which an international carrier must comply as part of its authorization. We propose to create a new section of our rules that identifies the standard conditions that we normally place on carriers in their Section 214 authorizations. This section would include the following: (1) the prohibition on the resale of private lines for the provision of international switched services unless the country is deemed equivalent; (2) the requirement to file copies of operating agreements entered into with foreign correspondents and all other agreements specified under Section 43.51 of the Commission's rules;[42] (3) the requirement to file applicable tariffs;[43] (4) the requirement to file annual reports of overseas telecommunications traffic;[44] and (5) the submission of circuit status reports.[45] We would reference this rule in the public notice that serves as applicants' Section 214 authorization.

44. We believe that having these conditions listed in one section of the rules would

[41] See Regulation of International Common Carrier Services, 7 FCC Rcd 7331, 7334, n.47 (1992).

[42] 47 C.F.R. § 43.51 (1994).

[43] 47 U.S.C. § 203 (1991); 47 C.F.R. § 61 (1994).

[44] 47 C.F.R. § 43.61 (1994).

[45] See supra note 3.

make it easier for carriers to determine the terms of their authorizations and for the Commission to facilitate implementation of our proposed streamlined procedures. We also ask for comment on whether any of these conditions should be modified or eliminated.

10. Petitions to deny

45. Our rules state that, unless otherwise specified, the Commission shall not grant Section 214 applications before 30 days after the issuance of the public notice of the application's acceptance for filing. Thus, parties have 30 days to submit petitions to deny the application.[46] We adopted the 30 day limit to track language from Title III of the Act, which places a 30 day public notice period on applications for radio licenses.[47]

46. We propose to amend Section 63.52(b) of the Commission's Rules to reduce the comment period on applications that are subject to streamlined processing for facilities-based and resale applicants from 30 to 21 days. For non-streamlined applications, we propose that the comment period be reduced from 30 to 28 days. We propose that the reply period for all applications be 14 days.

47. We recognize that the change from 30 to 21 days for streamlined processing may impose a slight hardship on smaller entities that do not have the necessary resources to file comments in a shorter period of time. However, our experience leads us to conclude that this hardship will rarely, if ever, occur. Moreover, reducing the time parties have to submit comments would accelerate the application process and enable carriers to enter the market faster. Similarly, reducing the comment period from 30 to 28 days for non-streamlined applications would make due dates easier to calculate for both applicants and the Commission. The due dates would be the same day of the week that the application appeared on public notice, only 4 weeks later.

V. FORM OF SECTION 214 APPLICATIONS

48. Section 63.53 of the Commission's Rules specifies the proper form for Section 214 applications. We propose that applicants have the option of filing their Section 214 applications on computer diskettes.

49. In the Circuit Status Report, we require: (1) the International Bureau to prepare a filing manual specifying reporting requirements for the annual circuit status reports; (2) that the manual include filing information for circuit status reports; (3) the reports to be filed on a common type and format of computer diskettes, which the Bureau

---

[46] 47 C.F.R. § 63.52(b) (1994).

[47] 47 U.S.C. § 309(d)(1) (1995).

would establish; and (4) the Bureau to hold meetings with industry to obtain input on collecting the necessary information contained in the circuit status report, consistent with the ways the carriers maintain such information for their own purposes. We propose to apply these procedures to the Section 214 application process to the extent that they apply. The two proceedings are interdependent and need to be coordinated properly. Lastly, we propose that information or documents in foreign languages that are submitted to the Commission in Section 214 proceedings be accompanied by a certified translation in English.

50. Having the application on computer diskettes would save us time inputting information that we include in Section 214 authorizations. Similarly, having English translations of relevant documents that are now submitted in foreign languages would save us and other parties to a proceeding the time and resources needed to translate the documents. We believe that these changes would help us process Section 214 applications faster. We also seek comment on whether the Bureau should create a form for the Section 214 application.

VI. COMPTEL PETITION FOR RULEMAKING

51. The Competitive Telecommunications Association ("CompTel") in 1988 filed a petition for rulemaking looking toward the elimination of tariff and reporting requirements imposed on nondominant international carriers that provide service solely on a resale basis.[48] CompTel asked that the Commission consider eliminating requirements that pure resellers file tariffs, submit semi-annual circuit addition and annual traffic data reports, provide 120-day advance notice of service discontinuances,[49] and file annual financial reports.

52. Since the filing of CompTel's petition, the United States Supreme Court has invalidated the Commission's "forbearance" or "permissive detariffing" rules.[50] We therefore cannot consider adopting CompTel's request that we forbear from applying our tariff filing requirements. We request comment, however, on whether we should further streamline our tariffing requirements for nondominant resale and facilities-based carriers by permitting them to file their international rates on not less than one day notice.[51]

---

[48] RM-6621. See Public Notice, Rep. No. 1763, Dec. 20 1988.

[49] See supra ¶¶ 31-36 (FCC proposal to modify the requirement for 120 day notice of service discontinuance).

[50] MCI Telecommunications Corp. v. American Telephone & Telegraph Co., 114 S.Ct. 2223 (1994); see also, AT&T v. FCC, 978 F.2d 727 (D.C. Cir. 1992), rehearing en banc denied, Jan. 21, 1993, cert. denied, 113 S.Ct. 3020 (1993).

[51] We have in a separate proceeding requested comment on whether we should eliminate the requirement that dominant, foreign-affiliated carriers file tariffs on 45 days notice with cost support, and allow them to comply with the nondominant carrier rules (i.e., file their tariffs on 14 days notice without cost

Nondominant international carriers now file their tariffs on not less than 14 days notice. Nondominant carriers are presently permitted to file tariffs for domestic interstate services on not less than one day notice.[52] We further invite commenters supporting a one-day notice period to address whether we should reduce the tariff filing burden on nondominant carriers by regulating their international tariff filings under streamlined tariff filing rules similar to those which govern the filing of nondominant interstate tariffs.[53] Specifically, we solicit comment on whether nondominant international tariff filings should be subject to relaxed form and content requirements, which include the filing of tariffs on computer diskette, containing only the limited information required under Section 203(a) of the Communications Act, 47 U.S.C. § 203(a), and a brief cover letter.

53. We do not propose at this time further changes to our rule that requires resellers to file annual traffic reports.[54] Since the filing of CompTel's petition, we have substantially reduced the reporting burden on pure resellers.[55] The Common Carrier Bureau recently solicited public comment on a new draft filing manual and no carrier suggested changes to the filing requirements for pure resellers.[56]

VII. FORBEARANCE

54. Finally, we request comment on what, if any, Section 214 authorization requirements we should forbear from applying if given forbearance authority by Congress. We note that pending before Congress in both the House and Senate are bills which, inter

---

support). See Foreign Carrier Entry - NPRM, 10 FCC Rcd 4844 (1995).

[52] See Tariff Filing Requirements for Nondominant Common Carriers, Public Notice, DA 95-428, rel. Mar. 6, 1995.

[53] See Sections 61.20 - 61.23 of the Commission's rules, 47 C.F.R. §§ 61.20 - 61.23. The nondominant tariff filing rules were vacated in Southwestern Bell Telephone Co. v. FCC, 43 F.3d 1515 (D.C. Cir. 1995). The Commission is currently in the process of conforming its rules with the court's decision. See Public Notice, supra note 52.

[54] See 47 C.F.R. § 43.61 (1994).

[55] See Amendment of Section 43.61 of the Commission's Rules, Report and Order, CC Doc. No. 91-22, 7 FCC Rcd 1379 (1992).

[56] The Common Carrier Bureau issued the new filing manual on June 8, 1995. See Manual for Filing International Traffic Statistics pursuant to Section 43.61 of the Commission's Rules, DA 95-1248, rel. June 8, 1995. We similarly do not propose at this time further changes in this proceeding to Section 43.21 of the rules, which requires financial reports from certain common carriers. CompTel cited to this rule in its petition but proposed no specific modifications. We have amended this rule several times since the filing of CompTel's petition

alia, would give the Commission authority to forbear from applying Section 214 to carriers.[57]

VIII. CONCLUSION

55. In this Notice, we have advanced a number of proposals that modify our Section 214 application process and tariff requirements to eliminate unnecessary and burdensome regulations. Our proposals would generally streamline our regulations on international carriers, reduce the processing time of Section 214 applications, and clarify our rules relating to international carriers. Our proposals would make entry to and exit from the market easier and faster for international carriers. We seek comment on all proposals contained in the Notice and invite additional suggestions on how the Commission may best reach its stated goals.

56. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. The IRFA is set forth in Appendix A, Section II. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice (see Appendix A, Section III), but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis. The Secretary shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. Section 601 et seq. (1980).

IX. ORDERING CLAUSES

57. Accordingly, IT IS ORDERED that NOTICE IS HEREBY GIVEN of the proposed regulatory action described above, and that COMMENT IS SOUGHT on the proposals in this Notice and in Appendix A.

58. This action is taken pursuant to Sections 4 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154, 303(r).

---

[57] See S. 652, 104th Cong., 1st Sess. § 303 (1995); H.R. 1555, 104th Cong., 1st Sess. § 103 (1995). Both bills would give the Commission authority to forbear when: (1) enforcement is not necessary to ensure that the changes, practices, classifications, or regulations in connection with the carrier or service are reasonable and not unjustly or unreasonably discriminatory; (2) enforcement is not necessary to protect consumers; and (3) forbearance is consistent with the public interest. Congress also is considering having the Commission consider whether forbearance from enforcing any regulation or provision will promote competitive market conditions and enhance competition among providers of telecommunications services.

59. For further information on this Notice contact Brian O'Connor, Chief, Policy and Facilities Branch, International Bureau, (202) 739-0533, and Helene T. Schrier or Troy F. Tanner, Attorneys, Policy and Facilities Branch, International Bureau, (202) 418-1470.

FEDERAL COMMUNICATIONS COMMISSION

William F. Caton

William F. Caton
Acting Secretary

APPENDIX A - PROPOSED RULES

§ 63.01 Contents of applications for domestic common carriers.

Except as otherwise provided in this part, any party proposing to undertake any construction of a new line, extension of any line, acquisition, lease, or operation of any line or extension thereof or engage in transmission over or by means of such line, and such line does not extend to a foreign point, for which authority is required under the provisions of section 214 of the Communications Act of 1934, as amended, shall request such authority by formal application which shall be accompanied by a statement showing how the proposed construction, etc. will serve the public interest, convenience, and necessity. Such statement must include the following information as applicable:

(a) The name and address of each applicant;

(b) The Government, State, or Territory under the laws of which each corporate applicant is organized;

(c) The name, title, and post office address of the officer to whom correspondence concerning the application is to be addressed;

(d) A statement as to whether the applicant is a carrier subject to section 214 of the Act or will become such a carrier as a result of the proposed construction, acquisition, or operation;

(e) A statement as to whether the facilities covered by the application will be used to extend communication service into territory at present not directly served by the applicant or to supplement existing facilities of the applicant, and the nature and classification of the communication services to be provided (e.g. telephone, telegraph, facsimile, data, private line, voice, television relay, etc.);

(f) The points between which the proposed facilities are to be located;

(g) A description of applicant's existing facilities between these points, showing specifically the total number of channels presently provided between major points on each principal route;

(h) A description of the facilities for which authority is requested, including:

(1) The number of channels of each type to be provided by such facilities;

(2) The number, if any, of wires, conductors, and coaxial units of each type (not equipped for immediate operation) capable of providing additional channels of communication only by the construction of additional apparatus, equipment, or other facilities;

(3) The types of classes of toll telephone or telegraph offices to be established;

(i) Applicant's present and estimated future requirements, both for the route of the proposed facilities and for routes from which any rerouting to the proposed facilities is contemplated within the period of the estimate. Where 60 domestic circuits or more are to be derived from the proposed construction, acquisition, or lease, list the principal circuit groups currently operated, the number of circuits in each group, and the estimate number of circuits required in each group to meet the load demands for the ensuing one year, two year, or five year period, as may be appropriate in order to provide adequate justification for said increases, including current traffic load trends, as indicated by periodic traffic load studies.

(j) A map or sketch showing:

(1) Route of proposed project;

(2) Type and ownership of structures (open wire, aerial cable, underground cable, carrier systems, etc.);

(3) Facilities, if any, to be removed;

(4) Cities, towns, and villages along routes indicated on map or sketch, with approximate population of each, and route kilometers between the principal points;

(5) Location of important operating centers, and repeater or relay points;

(6) State boundary lines through which the proposed facilities will extend;

(7) Topographical features which may require special consideration or entail added cost;

(k) One or more of the following statements, as pertinent:

(1) If proposed facilities are to be constructed, the details thereof, including summary of cost estimates separately by Plant Accounts affected (in case of construction by or for two or more parties, the quantities of facilities of each kind acquired by each and the cost attributed thereto), quantities and cost of major materials; and amount of labor and cost thereof;

(2) If proposed facilities are to be leased, the details thereof, including the name of the lessor, a summary of the terms of the lease arrangements (or a copy of the lease), the anticipated lease rental, setting up charges, added equipment costs, and each other added cost to the applicant;

(3) If proposed facilities are to be purchased, the name of the vendor; a detailed description of all the properties involved including assets other than plant being acquired in connection with the same transaction; a complete description of the contractual arrangements relating to the sale or a copy of the contract; added equipment cost and each other added cost to the applicant; a statement of the original cost of, and the related reserve requirement for depreciation applicable to, the plant to be acquired (with a full explanation of the manner in which these amounts were determined) including, when appropriate, a separate statement of such amounts applicable to duplicate or other plant which will be retired by the vendee in the reconstruction of the acquired property or its consolidation with previously owned property; and a statement of the estimated annual savings in expenses expected to result from the proposed acquisition;

(4) If facilities are to be acquired or operated other than by lease or purchase a detailed description of the facilities involved; the terms of the contract or other arrangement relating to such acquisition or operation; added equipment costs; and each other added cost to the applicant;

(l) A summary of the factors showing the public need for the proposed facilities;

(m) Economic justification for the proposed project including, where the application involves an extension into new territory at present not directly served by the applicant, estimated added revenues and costs and the basis therefor;

(n) Description of the manner and means by which interstate services of a similar character are now being rendered by the applicant and others in the area to be served by the proposed facilities, including reasons why existing facilities are inadequate;

(o) Proposed tariff charges and regulations for domestic applications;

(p) A statement of the accounting proposed to be performed in connection with the project. If the facilities are to be acquired by purchase, such proposed accounting shall be presented in journal entry form (on an estimated basis if actual amounts are not available), together with a full explanation of the manner in which the respective amounts were determined.

(q) A statement whether an authorization of the facilities is categorically excluded as defined by s 1.1306 of the Commission's rules. If answered affirmatively, an environmental assessment as described in s 1.1311 need not be filed with the application.

§ 63.XX Contents of applications for international common carriers.

Except as otherwise provided in this part, any party seeking authority pursuant to Section 214 of the Communications Act of 1934, as amended, to acquire facilities for the provision of common carrier communications services between the United States, its territories or possessions and a foreign point, shall request such authority by formal application which shall be accompanied by a statement showing how grant of the application will serve the public interest, convenience, and necessity. Such statement shall consist of the following information as applicable.

(a) The name, address, and telephone number of each applicant;

(b) The Government, State, or Territory under the laws of which each corporate or partnership applicant is organized;

(c) The name, title, post office address, and telephone number of the officer and any other contact point, such as legal counsel, to whom correspondence concerning the application is to be addressed;

(d) A statement as to whether the applicant has previously received authority under Section 214 of the Act, and, if so, a general description of the categories of facilities and services authorized (i.e. authorized to provide international switched services on a facilities-basis) ;

(e) One or more of the following statements, as pertinent:

(1) If applying for authority to acquire interests in facilities previously authorized by the Commission in order to provide international basic switched, private line, data, television and business services to all points in the world, the applicant shall:

(i) State that it is requesting Section 214 authority to operate as a facilities-based carrier pursuant to the terms and conditions of Section 63.XX(e)(1).

(ii) Comply with the following terms and conditions:

(A) Authority to provide services to the world under this part only applies to those countries for which the applicant qualifies for nondominant regulation as set forth in Section 63.10. If an applicant becomes dominant on a particular route after receiving authority under this rule, the terms and conditions of this rule as they apply to providing service on the dominant route will be superseded by the Commission's finding of dominance. An applicant must file separately under Section 63.XX(e)(5) to provide service on routes on which it is regulated as dominant.

(B) The applicant may only provide service using half-circuits on appropriately licensed U.S. common and noncommon carrier facilities (either under Title III of the Act, or the Cable Landing License Act) or necessary overseas connecting facilities, provided these facilities do not appear on an exclusion list published by the Commission.

(C) The applicant may provide service to any country not included on an exclusion list published by the Commission.

(D) The applicant may provide international basic switched, private line, data, television and business services.

(E) The authority granted under this paragraph shall be subject to all Commission rules and regulations and any conditions stated in the Commission's public notice or order that serves as the applicant's Section 214 certificate. See Section 63.12.

(2) If applying for authority to resell the international services of authorized U.S. common carriers for the provision of international basic switched, private line, data, television and business services to all points in the world, the applicant shall:

(i) State that it is requesting Section 214 authority to operate as a resale carrier pursuant to the terms and conditions of Section 63.XX(e)(2).

(ii) Comply with the following the terms and conditions:

(A) The applicant may resell the international services of any authorized unaffiliated common carrier, pursuant to that carrier's tariff or contract duly filed with this Commission, for the provision of international basic switched, private line, data, television and business services to all points in the world;

(B) If the applicant is reselling private line services for the provision of international basic switched services the applicant may only resell such private lines to countries found by the Commission to provide equivalent resale opportunities. The Commission will provide public notice of its findings.

(C) The authority granted under this paragraph shall be subject to all Commission rules and regulations and any conditions stated in the Commission's public notice or order that serves as the applicant's Section 214 certificate. See Section 63.12.

(3) If applying for authority to resell private lines for the purpose of providing international basic switched services to countries not identified in the Commission's published list of equivalent countries, applicant shall demonstrate for each country to which it seeks to provide service that that country affords resale opportunities equivalent to those available under U.S. law. In this regard, applicant shall:

(i) Include evidence demonstrating that equivalent resale opportunities exist between the United States and the subject country, including any relevant bilateral agreements between the administrations involved. Parties may address such issues as:

(A) Licensing;

(B) Tariffing; and

(C) Other terms and conditions associated with the provision of service.

(4) If applying for authority to acquire facilities through the transfer of control of a common carrier holding international Section 214 authorization, or through the assignment of another carrier's existing authorization, the applicant shall complete paragraph (a) through (d) of this section for both the transferor/assignor and the transferee/assignee. Paragraph (g) of this section is not applicable, and only the transferee/assignee needs to